



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 21, 1995

Ms. Kelli Hamm Karczewski
Schartz & Eichelbaum
TASA Building
406 East 11th Street
Austin, Texas 78701-2617

OR95-1581

Dear Ms. Karczewski:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34439.

Eanes Independent School District (the "district") received a request for "a copy of any and all complaints pertaining to those cases of discrimination which have been filed against the [district]." You submitted a number of documents to this office for review.¹

You contend that the information at issue is excepted from disclosure pursuant to section 552.101. Information is excepted from disclosure by a common-law right of privacy under section 552.101 if the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976) *cert. denied*, 430 U.S. 930 (1977). Although information relating to the internal investigation of harassment involving public employees may be highly intimate or embarrassing, the public generally has a legitimate interest in knowing the details of such an investigation. Open Records Decision No. 444 (1986).

¹Some of the documents, including an employment application and employee guidelines, do not appear responsive to the request. You do not have to supply non-responsive documents to the requestor. We note also that some of the information on the employment application may be confidential. We have marked some of this information.

In *Morales v. Ellen*, 840 S.W.2d 519, 525 (Tex. App.--El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment. The investigation files in *Ellen* contained individual witness statements, an affidavit by the individual accused of the misconduct responding to the allegations, and a summary of the board of inquiry that conducted the investigation. *Id.* The court ordered the release of the affidavit of the person under investigation and the summary, stating that the public's interest was sufficiently served by the disclosure of these documents. *Id.* In concluding, the *Ellen* court held that "the public did not possess a legitimate interest in the identities of the individual witnesses, nor the details of their personal statements beyond what is contained in the documents that have been ordered released." *Id.*

In accordance with *Ellen*, you must withhold the statements of the victims, as marked. You also must redact the identifying information about victims and witnesses in the other documents at issue before releasing them. We have marked sample documents to show the type of information that must be withheld.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/rho

Ref.: ID# 34439

²We have also marked information that must be withheld because it contains criminal history information that apparently was generated by the Department of Public Safety (the "DPS"). Section 411.083 of the Government Code deems confidential criminal history records that the Department of Public Safety (the "DPS") maintains, except that DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087.

Enclosures: Marked documents

cc: Ms. Paz Goldberg
2707 Mountain Laurel Lane
Austin, Texas 78703
(w/o enclosures)